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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/425,436	10/22/1999	RICHARD ROBERT CAPPADONA	66635	9564
22242	7590	10/25/2005	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			BECKER, DREW E	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/425,436	CAPPADONA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Drew E. Becker	1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 29 April 2005.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 2-6 and 8-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 2-6 and 8-19 is/are allowed.
- 6) Claim(s) 20-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

1. In view of the appeal brief filed on April 29, 2005, PROSECUTION IS HEREBY REOPENED. New rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:



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MILTON J. CANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 21 recites the limitation "the gauge". There is insufficient antecedent basis for this limitation in the claim.
5. Claim 21 recites "a temperature sensing device". It is not clear whether this is the same "temperature sensing device" cited in parent claim 20.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barbour [Pat. No. 6,293,271] in view of DE 7527182.

Barbour teaches a cooking device suitable for stovetop waterless cooking comprising a pan (Figure 1, #24), a removable lid with upper and lower surfaces as well as a rim (Figure 1, #26), an aperture through the lid (Figure 8, #74), a removable thermometer extending through the aperture, the thermometer inherently having a display, the thermometer having a probe extending down to a height above the rim (Figure 4, #78), Barbour does not recite a knob body (claim 20), a temperature sensing device within the probe (claim 20), the probe being a thin-walled, hollow tube (claim 21), a holder (claim 22), and a retaining member (claim 22). DE 7527182 teaches a cooking device comprising a lid with a knob assembly (Figure 1, #11-12), a thermometer comprising a thin-walled, hollow tube with a temperature sensing device (Figure 1, #16-18), a holder

(Figure 1, #12), and a retaining member (Figure 1, #13). It would have been obvious to one of ordinary skill in the art to incorporate the thermometer structure and knob of DE 727182 into the invention of Barbour since both are directed to cooking devices, since Barbour already included a removable thermometer (Figure 4, #78) and a handle (Figure 7, #68), since knobs were commonly used as handles on cookware lids as shown by DE 7527182 (Figure 1), since Barbour simply did not describe the thermometer details, and since the thermometer and knob structure of DE 7527182 combined the handle and temperature sensing functions of Barbour into one unitary component which was still capable of being removed at will.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barbour in view of DE 7527182 and Hupf et al [Pat. No. 6,004,000].

Barbour teaches a method of cooking by placing foods with little or no water in a pan (Figures 12-13, #24), a removable lid with a rim (Figures 12-13, #26), an aperture in the lid which receives a thermometer (Figures 12-13, #74 & 78), a blockable vent (Figures 12-13, #76 & 80), the thermometer including a probe, an inherent display, and the lower end of the probe being located above the rim (Figures 12-13, #78), applying heat to the pan bottom (Figures 12-13, #12), and measuring the temperature within the pan (column 6, line 56). Barbour does not recite a knob assembly, a temperature sensing device beneath the aperture, and closing the vent and reducing the heat when the temperature reaches a predetermined point. DE 7527182 teaches a method of cooking by use of a lid with a knob assembly (Figure 1, #12), an aperture holding a thermometer with a temperature sensor beneath the aperture (Figure 1, #16-18). It would have been

obvious to one of ordinary skill in the art to incorporate the thermometer structure and knob of DE 727182 into the invention of Barbour since both are directed to cooking devices, since Barbour already included a removable thermometer (Figure 4, #78) and a handle (Figure 7, #68), since knobs were commonly used as handles on cookware lids as shown by DE 7527182 (Figure 1), since Barbour simply did not describe the thermometer details, and since the thermometer and knob structure of DE 7527182 combined the handle and temperature sensing functions of Barbour into one unitary component which was still capable of being removed at will. Hupf et al teach a method waterless cooking by placing food with little or no water into a pan, placing a lid over the pan, heating the bottom of the pan, measuring the temperature, closing the vent, and reducing the heat (column 6, lines 31-44). It would have been obvious to one of ordinary skill in the art to incorporate the cooking steps of Hupf et al into the invention of Barbour, in view of DE 7527182, since all are directed to methods of cooking food, since Barbour already included cooking food with little or no water (Figures 12-13), since the device of Barbour was expressly built for multiple different cooking techniques (abstract), since Barbour teaches employing other additional cooking modes (column 7, line 57), since Barbour already included a temperature sensor, bottom heating, and a vent (Figures 12-13, #12, 78, 80), and since the waterless cooking method of Hupf et al was a commonly used cooking technique (column 6, lines 31-44).

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Elinsky [Pat. No. 4,847,099] teach a method and device for cooking by use of a pan and thermometer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Drew Becker*  
DREW BECKER  
PRIMAP  
102405